

## SB0034S01 compared with SB0034

~~{deleted text}~~ shows text that was in SB0034 but was deleted in SB0034S01.

inserted text shows text that was not in SB0034 but was inserted into SB0034S01.

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Senator Wayne A. Harper proposes the following substitute bill:

### UTAH STATE RETIREMENT SYSTEMS REVISIONS

2024 GENERAL SESSION

STATE OF UTAH

**Chief Sponsor:** {} Wayne A. Harper

House Sponsor: {} Cheryl K. Acton

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#### LONG TITLE

##### ~~{Committee Note:~~

~~—————The Retirement and Independent Entities Interim Committee recommended this bill.~~

~~—————Legislative Vote: 10 voting for 0 voting against 5 absent~~

##### {General Description:

This bill modifies the Utah State Retirement and Insurance Benefit Act.

#### Highlighted Provisions:

This bill:

- ▶ modifies a defined term referencing the Utah State Retirement Investment Fund to reflect the fund name;
- ▶ requires a participating employer to maintain records supporting certifications and reports regarding employee service credit;
- ▶ provides a participating employer's liability for failing to comply with contribution,

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record keeping, reporting, and certification requirements;

- ▶ provides a participating employer's maximum penalty for failing to make contributions, retain records, or correctly report or certify eligibility;
- ▶ requires, in an appeal, that the Utah State Retirement Board review a hearing officer's final judgment or decision;

~~{ → provides the work required by a public safety service employee or firefighter service employee;~~

- ‡ ▶ clarifies that a career retirement benefit awarded to a surviving spouse is in addition to a death benefit; and
- ▶ makes technical and conforming changes.

### Money Appropriated in this Bill:

None

### Other Special Clauses:

~~{ This bill provides a special effective date. }~~ None

### Utah Code Sections Affected:

AMENDS:

49-11-306, as last amended by Laws of Utah 2011, Chapter 352

49-11-602, as last amended by Laws of Utah 2017, Chapter 141

49-11-604, as last amended by Laws of Utah 2018, Chapter 10

49-11-613, as last amended by Laws of Utah 2023, Chapter 37

49-12-405, as last amended by Laws of Utah 2016, Chapter 84

49-13-405, as last amended by Laws of Utah 2016, Chapter 84

~~{ → 49-14-102, as last amended by Laws of Utah 2022, Chapter 171~~

~~→ 49-15-102, as last amended by Laws of Utah 2022, Chapter 171~~

~~→ 49-16-102 (Superseded 07/01/24), as last amended by Laws of Utah 2023, Chapters 37, 59 and 139~~

~~→ 49-16-102 (Effective 07/01/24), as last amended by Laws of Utah 2023, Chapter 310~~

‡ 49-22-502, as last amended by Laws of Utah 2016, Chapter 84

~~{ → 49-23-102 (Superseded 07/01/24), as last amended by Laws of Utah 2023, Chapter 59~~

~~→ 49-23-102 (Effective 07/01/24), as last amended by Laws of Utah 2023, Chapter 310~~

‡ 49-23-502, as last amended by Laws of Utah 2016, Chapter 84

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*Be it enacted by the Legislature of the state of Utah:*

Section 1. Section **49-11-306** is amended to read:

**49-11-306. Definitions -- Scrutinized companies investment report -- Content -- Reporting -- Exceptions.**

(1) As used in this section:

(a) "Active business operations" means all business operations that are not inactive business operations.

(b) (i) "Business operations" means investing, with actual knowledge on or after August 5, 1996, in Iran's petroleum sector which investment directly and significantly contributes to the enhancement of Iran's ability to develop the petroleum resources of Iran.

(ii) "Business operations" does not include the retail sale of gasoline and related consumer products.

(c) "Company" means any foreign sole proprietorship, organization, association, corporation, partnership, joint venture, limited partnership, limited liability partnership, limited liability company, or any other foreign entity or business association, including all wholly-owned subsidiaries, majority-owned subsidiaries or parent companies or affiliates of these entities or business associations, that exists for the purpose of making a profit.

(d) (i) "Direct holdings" means all publicly traded equity securities of a company that are held directly by the [~~public~~] investment fund or in an account or fund in which the [~~public~~] investment fund owns all shares or interests.

(ii) "Direct holdings" does not include publicly traded equity securities of a company held as part of a passive indexing investment strategy.

(e) "Inactive business operations" means the continued holding or renewal of rights to property previously operated for the purpose of generating revenues but not presently deployed for that purpose.

(f) "Investment fund" means the Utah State Retirement Investment Fund created in Section 49-11-301.

[~~(f)~~] (g) "Iran" means the Islamic Republic of Iran.

[~~(g)~~] (h) "Petroleum resources" means petroleum or natural gas.

[~~(h)~~] "~~Public fund~~" means the ~~Utah State Retirement Investment Fund created under~~

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~~Section 49-11-301.]~~

(i) "Scrutinized business operations" means any active business operations that:

(i) are subject to or liable for sanctions under Public Law 104-172, the Iran Sanctions Act of 1996, as amended; and

(ii) involve the maintenance of:

(A) the company's existing assets or investments in Iran; or

(B) the deployment of new investments to Iran that meet or exceed the threshold referred to in Public Law 104-172, the Iran Sanctions Act of 1996, as amended.

(j) "Scrutinized company" means any company engaging in scrutinized business operations.

(2) (a) (i) The Utah State Retirement Office shall identify ~~[those]~~ the scrutinized companies in which the ~~[public]~~ investment fund has direct holdings.

(ii) In making the determination, the board shall review and rely on publicly available information regarding companies with business operations in Iran, including information provided by nonprofit organizations, research firms, international organizations, and government entities.

(b) The office shall assemble a list of all identified scrutinized companies.

(c) The office shall update the list, on an annual basis, with information provided and received from those entities listed in Subsection (2)(a).

(3) The office shall prepare an annual report of ~~[public]~~ investment fund investments in scrutinized companies.

(4) The report shall include amounts and other data and statistics designed to explain the past and current extent to which public fund investments in scrutinized companies:

(a) are present; and

(b) are being prevented under Subsection (6).

(5) The report shall be provided to the governor, the board, the president of the Senate, the speaker of the House of Representatives, and to each member and staff of the Retirement and Independent Entities Committee created under Section 63E-1-201.

(6) ~~[Beginning July 1, 2011, using]~~ Using the most current list assembled under Subsection (2), the office shall prevent the investment of ~~[public funds]~~ investment ~~[[funds]~~ fund's direct holdings in a scrutinized company:

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(a) for [public] funds managed within the office, by not investing in direct holdings in a scrutinized company; and

(b) for [public] funds managed by contract by a professional investment manager:

(i) for existing contracts, by requesting that no more direct holdings be acquired in a scrutinized company; and

(ii) for future contracts, by stipulating in the contract that no new direct holdings be acquired in a scrutinized company.

(7) The provisions of this section do not apply to:

(a) money invested in a defined contribution plan as defined under Section 49-11-102;

or

(b) investments in a company that is primarily engaged in:

(i) supplying goods or services intended to relieve human suffering in Iran; or

(ii) promoting health, education, religious, welfare, or journalistic activities in Iran.

Section 2. Section **49-11-602** is amended to read:

**49-11-602. Participating employer to maintain records -- Time limit -- Penalties for failure to comply.**

(1) A participating employer shall:

(a) maintain records necessary to calculate benefits under this title and other records necessary for proper administration of this title as required by the office; and

(b) maintain records that indicate whether an employee is receiving:

(i) a benefit under state or federal law that, under Subsection 49-12-102(1)(b)(vi) or (vii), is excluded from the definition of benefits normally provided for purposes of Chapter 12, Public Employees' Contributory Retirement Act, Chapter 13, Public Employees' Noncontributory Retirement Act, or Chapter 22, New Public Employees' Tier II Contributory Retirement Act; or

(ii) a benefit under a benefit package generally offered to similarly situated employees.

(2) A participating employer shall maintain all records necessary to support the participating employer's reports and certifications required by Section 49-11-603.

~~(2)~~ (3) A participating employer shall maintain the records required under ~~Subsection (1)~~ Subsections (1) and (2) until the earliest of:

(a) three years after the date of retirement of the employee from a system or plan;

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- (b) three years after the date of death of the employee; or
- (c) 65 years from the date of employment with the participating employer.

~~[(3)]~~ (4) A participating employer shall be liable to the office for:

(a) any liabilities and expenses, including administrative expenses and the cost of increased benefits to members, resulting from the participating employer's failure to maintain records under this section; and

(b) a penalty equal to 1% of the participating employer's last month's contributions.

~~[(4)]~~ (5) The executive director may waive all or any part of the interest, penalties, expenses, and fees if the executive director finds there were extenuating circumstances surrounding the participating employer's failure to comply with this section.

~~[(5)]~~ (6) The office may estimate the length of service, compensation, or age of any member, if that information is not contained in the records.

~~[(6)]~~ (7) (a) A participating employer shall enroll an employee, make reports, submit contributions, and provide other requested information electronically in a manner approved by the office.

(b) A participating employer shall treat any information provided electronically or otherwise by the office as subject to the confidentiality provisions of this title.

Section 3. Section **49-11-604** is amended to read:

**49-11-604. Office audits of participating employers -- Penalties for failure to comply.**

(1) (a) The office may perform an on-site compliance audit of a participating employer to determine compliance with reporting, contribution, and certification requirements under this title.

(b) The office or its independent auditor may perform an on-site compliance audit of a participating employer or request records to be provided by the participating employer, including records required to complete:

- (i) audited financial statements;
- (ii) schedules of employer allocations and pension reporting in accordance with Governmental Accounting Standards Board statements; and
- (iii) service organizational controls reports.

(c) The office may request records to be provided by the participating employer at the

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time of the audit.

(d) Audits shall be conducted at the sole discretion of the office after reasonable notice to the participating employer of at least five working days.

(e) The participating employer shall extract and provide records as requested by the office in an appropriate, organized, and usable format.

(f) Failure of a participating employer to allow access, provide records, or comply in any way with an office audit shall result in the participating employer being liable to the office for:

(i) any liabilities and expenses, including administrative expenses and travel expenses, resulting from the participating employer's failure to comply with the audit; and

(ii) a penalty equal to 1% of the participating employer's last month's contributions.

(2) If the audit reveals a participating employer's failure to make contributions as required under Section 49-11-601, a failure to maintain records as required under Section 49-11-602, or a failure to correctly report or certify eligibility as required under Section 49-11-603, the participating employer shall ~~[reimburse]~~ be liable to the office for [the cost of the audit.]:

(a) any liability or expense, including an administrative expense or the cost of increased benefits to members, resulting from the participating employer's failure to fully comply with the participating employer's reporting, contribution, certification, or record keeping requirements under this title; and

(b) a penalty, not to exceed 50% of the participating employer's total contributions for the time period of the error.

(3) If the audit reveals that an incorrect benefit has been paid by the office to a member, participant, alternate payee, or beneficiary due to a participating employer's failure to comply with the requirements of Section 49-11-601, 49-11-602, or 49-11-603, in addition to the liabilities contained in Subsection (2), the participating employer shall be liable to the office for the following:

(a) the actuarial cost of correcting the incorrect benefit; and

(b) administrative expenses.

(4) The executive director may waive all or any part of the interest, penalties, expenses, and fees if the executive director finds there were extenuating circumstances surrounding the

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participating employer's failure to comply with this section.

Section 4. Section **49-11-613** is amended to read:

### **49-11-613. Appeals procedure -- Right of appeal to hearing officer -- Board reconsideration -- Judicial review -- Docketing abstract of final administrative order.**

(1) (a) A member, retiree, participant, alternative payee, covered individual, employer, participating employer, and covered employer shall inform themselves of their benefits, rights, obligations, and employment rights under this title.

(b) Subject to Subsection (8), any dispute regarding a benefit, right, obligation, or employment right under this title is subject to the procedures provided under this section.

(c) (i) A person who disputes a benefit, right, obligation, or employment right under this title shall request a ruling by the executive director who may delegate the decision to the deputy director.

(ii) A request for a ruling to the executive director under this section shall constitute the initiation of an action for purposes of the limitations periods described in Section 49-11-613.5.

(d) A person who is dissatisfied by a ruling under Subsection (1)(c) with respect to any benefit, right, obligation, or employment right under this title may request a review of that claim by a hearing officer within the time period described in Section 49-11-613.5.

(e) (i) The executive director, on behalf of the board, may request that the hearing officer review a dispute regarding any benefit, right, obligation, or employment right under this title by filing a notice of board action and providing notice to all affected parties in accordance with rules adopted by the board.

(ii) The filing of a notice of board action shall constitute the initiation of an action for purposes of the limitations periods described in Section 49-11-613.5.

(2) The hearing officer shall:

(a) be hired by the executive director after consultation with the board;

(b) follow and enforce the procedures and requirements of:

(i) this title;

(ii) the rules adopted by the board in accordance with Subsection (10); and

(iii) Title 63G, Chapter 4, Administrative Procedures Act, except as specifically modified under this title or the rules adopted by the board in accordance with Subsection (10);

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(c) hear and determine all facts relevant to a decision, including facts pertaining to applications for benefits under any system, plan, or program under this title and all matters pertaining to the administration of the office; and

(d) make conclusions of law in determining the person's rights under any system, plan, or program under this title and matters pertaining to the administration of the office.

(3) The board shall review and approve or deny all [~~decisions~~] final orders and judgments of the hearing officer in accordance with rules adopted by the board in accordance with Subsection (10).

(4) The moving party in any proceeding brought under this section shall bear the burden of proof.

(5) A party may file an application for reconsideration by the board upon any of the following grounds:

(a) that the board acted in excess of the board's powers;

(b) that the order or the award was procured by fraud;

(c) that the evidence does not justify the determination of the hearing officer; or

(d) that the party has discovered new material evidence that could not, with reasonable diligence, have been discovered or procured prior to the hearing.

(6) The board shall affirm, reverse, or modify the [~~decision~~] final order or judgment of the hearing officer, or remand the application to the hearing officer for further consideration.

(7) A party aggrieved by the board's final decision under Subsection (6) may obtain judicial review by complying with the procedures and requirements of:

(a) this title;

(b) rules adopted by the board in accordance with Subsection (10); and

(c) Title 63G, Chapter 4, Administrative Procedures Act, except as specifically modified under this title or the rules adopted by the board in accordance with Subsection (10).

(8) The program shall provide an appeals process for medical claims that complies with federal law.

(9) (a) (i) Any interested party may file, in a district court of any county in the state, an abstract of a final administrative order approved by the board in accordance with this section.

(ii) Upon receiving the filing of an abstract, the clerk of the district court shall:

(A) docket the abstract; and

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(B) note the date of the abstract's receipt on the abstract and in the docket.

(b) (i) From the day on which an interested party files the abstract with a district court, the final administrative order approved by the board is a lien upon the real property of the obligor situated in that county.

(ii) Unless satisfied, the lien is for a period of eight years after the day on which the board approves the final administrative order.

(c) The final administrative order approved by the board fixing the liability of the obligor has the same effect as any other money judgment entered by a district court.

(d) (i) Except as provided in Subsection (9)(d)(ii), an attachment, a garnishment, or an execution on a judgment included in or accruing under a final administrative order approved by the board and filed and docketed in accordance with Subsection (9)(a) has the same manner and same effect as an attachment, a garnishment, or an execution on a judgment of a district court.

(ii) A writ of garnishment on earnings continues to operate, and to require the garnishee to withhold the nonexempt portion of earnings at each succeeding earnings disbursement interval, until the office or a court releases the writ of garnishment in writing.

(e) The lien and enforcement remedies provided by this section are in addition to any other lien or remedy provided by law.

(f) A party may bring an action upon a final administrative order approved by the board within eight years after the day on which the board approves the final administrative order.

(g) A final administrative order may be renewed administratively by complying with the procedures and requirements provided in rule adopted by the board in accordance with Subsection (10).

(10) (a) The board shall make rules to implement this section and to establish procedures and requirements for adjudicative proceedings.

(b) The rules shall be substantially similar to or incorporate provisions of the Utah Rules of Civil Procedure, the Utah Rules of Evidence, and Title 63G, Chapter 4, Administrative Procedures Act.

Section 5. Section **49-12-405** is amended to read:

**49-12-405. Death of married member -- Service retirement benefits to surviving spouse.**

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(1) Upon the request of a deceased member's surviving spouse, the deceased member is considered to have retired under Option Three on the first day of the month following the month in which the member died if the following requirements are met:

(a) the member has:

(i) 25 or more years of service credit;

(ii) attained age 60 with 20 or more years of service credit;

(iii) attained age 62 with 10 or more years of service credit; or

(iv) attained age 65 with four or more years of service credit; and

(b) the member dies leaving a surviving spouse.

(2) The surviving spouse who requests a benefit under this section shall apply in writing to the office. The allowance shall begin on the first day of the month:

(a) following the month in which the member died, if the application is received by the office within 90 days of the member's death; or

(b) following the month in which the application is received by the office, if the application is received by the office more than 90 days after the member's death.

(3) The Option Three benefit calculation, when there are 25 or more years of service credit, shall be calculated without a reduction in allowance under Section 49-12-402.

(4) The benefit calculation for a surviving spouse with a valid domestic relations order benefits on file with the office before the member's death date in accordance with Section 49-11-612 is calculated according to the manner in which the court order specified benefits to be partitioned, whether as a fixed amount or as a percentage of the benefit.

(5) (a) Except for a return of member contributions, benefits payable under this section are retirement benefits and shall be paid in addition to any payments made under Section 49-12-501 [~~and constitute a full and final settlement of the claim of the surviving spouse or any other beneficiary filing claim for benefits under Section 49-12-501~~].

(b) Payments made under this section and Section 49-12-501 shall constitute a full and final settlement of the claim of the surviving spouse or any other beneficiary.

(6) If the death benefits under this section are partitioned among more than one surviving spouse due to domestic relations order benefits on file with the office before the member's death date in accordance with Section 49-11-612, the total amount received by the surviving spouses may not exceed the death benefits normally provided to one surviving

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spouse under this section.

Section 6. Section **49-13-405** is amended to read:

**49-13-405. Death of married members -- Service retirement benefits to surviving spouse.**

(1) As used in this section, "member's full allowance" means an Option Three allowance calculated under Section 49-13-402 without an actuarial reduction.

(2) Upon the request of a deceased member's surviving spouse, the deceased member is considered to have retired under Option Three on the first day of the month following the month in which the member died if the following requirements are met:

(a) the member has:

(i) 15 or more years of service credit;

(ii) attained age 62 with 10 or more years of service credit; or

(iii) attained age 65 with four or more years of service credit; and

(b) the member dies leaving a surviving spouse.

(3) The surviving spouse who requests a benefit under this section shall apply in writing to the office. The allowance shall begin on the first day of the month:

(a) following the month in which the member died, if the application is received by the office within 90 days of the member's death; or

(b) following the month in which the application is received by the office, if the application is received by the office more than 90 days after the member's death.

(4) The allowance payable to a surviving spouse under Subsection (2) is:

(a) if the member has 25 or more years of service credit at the time of death, the surviving spouse shall receive the member's full allowance;

(b) if the member has between 20-24 years of service credit and is not age 60 or older at the time of death, the surviving spouse shall receive two-thirds of the member's full allowance;

(c) if the member has between 15-19 years of service credit and is not age 62 or older at the time of death, the surviving spouse shall receive one-third of the member's full allowance; or

(d) if the member is age 60 or older with 20 or more years of service credit, age 62 or older with 10 or more years of service credit, or age 65 or older with four or more years of

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service credit at the time of death, the surviving spouse shall receive an Option Three benefit with actuarial reductions.

(5) The benefit calculation for a surviving spouse with a valid domestic relations order benefits on file with the office before the member's death date in accordance with Section 49-11-612 is calculated according to the manner in which the court order specified benefits to be partitioned, whether as a fixed amount or as a percentage of the benefit.

(6) (a) Except for a return of member contributions, benefits payable under this section are retirement benefits and shall be paid in addition to any other payments made under Section 49-13-501 [~~and shall constitute a full and final settlement of the claim of the surviving spouse or any other beneficiary filing a claim for benefits under Section 49-13-501~~].

(b) Payments made under this section and Section 49-13-501 shall constitute a full and final settlement of the claim of the surviving spouse or any other beneficiary.

(7) If the death benefits under this section are partitioned among more than one surviving spouse due to domestic relations order benefits on file with the office before the member's death date in accordance with Section 49-11-612, the total amount received by the surviving spouses may not exceed the death benefits normally provided to one surviving spouse under this section.

Section 7. Section ~~{49-14-102}~~49-22-502 is amended to read:

~~{~~ 49-14-102. Definitions:

~~\_\_\_\_\_~~ As used in this chapter:

~~\_\_\_\_\_~~ (1) (a) "Compensation" means the total amount of payments that are includable in gross income received by a public safety service employee as base income for the regularly scheduled work period. The participating employer shall establish the regularly scheduled work period. Base income shall be determined prior to the deduction of member contributions or any amounts the public safety service employee authorizes to be deducted for salary deferral or other benefits authorized by federal law.

~~\_\_\_\_\_~~ (b) "Compensation" includes performance-based bonuses and cost-of-living adjustments.

~~\_\_\_\_\_~~ (c) "Compensation" does not include:

~~\_\_\_\_\_~~ (i) overtime;

~~\_\_\_\_\_~~ (ii) sick pay incentives;

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- ~~—— (iii) retirement pay incentives;~~
- ~~—— (iv) the monetary value of remuneration paid in kind, including a residence, use of equipment or uniform, travel, or similar payments;~~
- ~~—— (v) a lump-sum payment or special payments covering accumulated leave; and~~
- ~~—— (vi) all contributions made by a participating employer under this system or under any other employee benefit system or plan maintained by a participating employer for the benefit of a member or participant.~~
- ~~—— (d) "Compensation" for purposes of this chapter may not exceed the amount allowed under Internal Revenue Code Section 401(a)(17).~~
- ~~—— (2) "Dispatcher" means the same as that term is defined in Section 53-6-102.~~
- ~~—— (3) (a) "Final average salary" means the amount calculated by averaging the highest three years of annual compensation preceding retirement subject to Subsections (3)(b), (c), and (d):~~
  - ~~—— (b) Except as provided in Subsection (3)(c), the percentage increase in annual compensation in any one of the years used may not exceed the previous year's compensation by more than 10% plus a cost-of-living adjustment equal to the decrease in the purchasing power of the dollar during the previous year, as measured by a United States Bureau of Labor Statistics Consumer Price Index average as determined by the board.~~
  - ~~—— (c) In cases where the participating employer provides acceptable documentation to the office, the limitation in Subsection (3)(b) may be exceeded if:~~
    - ~~—— (i) the public safety service employee has transferred from another agency; or~~
    - ~~—— (ii) the public safety service employee has been promoted to a new position.~~
  - ~~—— (d) The annual compensation used to calculate final average salary shall be based on a period, as determined by the board, consistent with the period used to determine years of service credit in accordance with Subsection (10).~~
- ~~—— (4) (a) "Line-of-duty death" means a death resulting from:~~
  - ~~—— (i) external force, violence, or disease occasioned by an act of duty as a public safety service employee; or~~
  - ~~—— (ii) strenuous activity, including a heart attack or stroke, that occurs during strenuous training or another strenuous activity required as an act of duty as a public safety service employee.~~

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- ~~—— (b) "Line-of-duty death" does not include a death that:~~
- ~~—— (i) occurs during an activity that is required as an act of duty as a public safety service employee if the activity is not a strenuous activity, including an activity that is clerical, administrative, or of a nonmanual nature;~~
  - ~~—— (ii) occurs during the commission of a crime committed by the employee;~~
  - ~~—— (iii) the employee's intoxication or use of alcohol or drugs, whether prescribed or nonprescribed, contributes to the employee's death; or~~
  - ~~—— (iv) occurs in a manner other than as described in Subsection (4)(a).~~
- ~~—— (5) "Participating employer" means an employer that meets the participation requirements of Section 49-14-201.~~
- ~~—— (6) (a) "Public safety service" means employment [normally requiring an average of 2,080 hours of regularly scheduled employment per year] meeting the requirements described in Subsection (6)(d) rendered by a member who is:~~
- ~~—— (i) a law enforcement officer in accordance with Section 53-13-103;~~
  - ~~—— (ii) a correctional officer in accordance with Section 53-13-104;~~
  - ~~—— (iii) a special function officer approved in accordance with Sections 49-14-201 and 53-13-105;~~
  - ~~—— (iv) a dispatcher who is certified in accordance with Section 53-6-303;~~
  - ~~—— (v) a full-time member of the Board of Pardons and Parole created under Section 77-27-2;~~
  - ~~—— (vi) the commissioner of the Department of Public Safety; or~~
  - ~~—— (vii) the executive director of the Department of Corrections.~~
- ~~—— (b) Except for a position described in Subsection (6)(a)(iv), (v), (vi), or (vii), "public safety service" also requires that, in the course of employment, the employee's life or personal safety is at risk.~~
- ~~—— (c) Except for the minimum hour requirement, Subsections (6)(a) and (b) do not apply to any person who was eligible for service credit in this system before January 1, 1984.~~
- ~~—— (d) "Public safety service" requires actual work in the public safety position:~~
- ~~—— (i) during each pay period that is equal to or greater than the hours that the participating employer has certified to the office as the regular work period necessary to accomplish the normal duties and responsibilities of the position; and~~

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~~—— (ii) that is at least 2,080 hours per year.~~

~~—— (7) "Public safety service employee" means an employee of a participating employer who performs public safety service under this chapter.~~

~~—— (8) (a) "Strenuous activity" means engagement involving a difficult, stressful, or vigorous fire suppression, rescue, hazardous material response, emergency medical service, physical law enforcement, prison security, disaster relief, or other emergency response activity.~~

~~—— (b) "Strenuous activity" includes participating in a participating employer sanctioned and funded training exercise that involves difficult, stressful, or vigorous physical activity.~~

~~—— (9) "System" means the Public Safety Contributory Retirement System created under this chapter.~~

~~—— (10) "Years of service credit" means the number of periods, each to consist of 12 full months as determined by the board, whether consecutive or not, during which a public safety service employee was employed by a participating employer, including time the public safety service employee was absent in the service of the United States government on military duty.~~

~~—— Section 8. Section ~~49-15-102~~ is amended to read:~~

~~—— **49-15-102. Definitions:**~~

~~—— As used in this chapter:~~

~~—— (1) (a) "Compensation" means the total amount of payments that are includable in gross income received by a public safety service employee as base income for the regularly scheduled work period. The participating employer shall establish the regularly scheduled work period. Base income shall be determined prior to the deduction of any amounts the public safety service employee authorizes to be deducted for salary deferral or other benefits authorized by federal law.~~

~~—— (b) "Compensation" includes performance-based bonuses and cost-of-living adjustments.~~

~~—— (c) "Compensation" does not include:~~

~~—— (i) overtime;~~

~~—— (ii) sick pay incentives;~~

~~—— (iii) retirement pay incentives;~~

~~—— (iv) the monetary value of remuneration paid in kind, as in a residence, use of equipment or uniform, travel, or similar payments;~~

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- ~~—— (v) a lump-sum payment or special payment covering accumulated leave; and~~
- ~~—— (vi) all contributions made by a participating employer under this system or under any other employee benefit system or plan maintained by a participating employer for the benefit of a member or participant.~~
- ~~—— (d) "Compensation" for purposes of this chapter may not exceed the amount allowed under Internal Revenue Code Section 401(a)(17).~~
- ~~—— (2) "Dispatcher" means the same as that term is defined in Section 53-6-102.~~
- ~~—— (3) (a) "Final average salary" means the amount calculated by averaging the highest three years of annual compensation preceding retirement subject to Subsections (3)(b), (c), and (d):~~
  - ~~—— (b) Except as provided in Subsection (3)(c), the percentage increase in annual compensation in any one of the years used may not exceed the previous year's compensation by more than 10% plus a cost-of-living adjustment equal to the decrease in the purchasing power of the dollar during the previous year, as measured by a United States Bureau of Labor Statistics Consumer Price Index average as determined by the board.~~
  - ~~—— (c) In cases where the participating employer provides acceptable documentation to the office, the limitation in Subsection (3)(b) may be exceeded if:~~
    - ~~—— (i) the public safety service employee has transferred from another agency; or~~
    - ~~—— (ii) the public safety service employee has been promoted to a new position.~~
  - ~~—— (d) The annual compensation used to calculate final average salary shall be based on a period, as determined by the board, consistent with the period used to determine years of service credit in accordance with Subsection (10).~~
- ~~—— (4) (a) "Line-of-duty death" means a death resulting from:~~
  - ~~—— (i) external force, violence, or disease occasioned by an act of duty as a public safety service employee; or~~
  - ~~—— (ii) strenuous activity, including a heart attack or stroke, that occurs during strenuous training or another strenuous activity required as an act of duty as a public safety service employee.~~
- ~~—— (b) "Line-of-duty death" does not include a death that:~~
  - ~~—— (i) occurs during an activity that is required as an act of duty as a public safety service employee if the activity is not a strenuous activity, including an activity that is clerical;~~

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~~administrative, or of a nonmanual nature;~~

~~—— (ii) occurs during the commission of a crime committed by the employee;~~

~~—— (iii) the employee's intoxication or use of alcohol or drugs, whether prescribed or nonprescribed, contributes to the employee's death; or~~

~~—— (iv) occurs in a manner other than as described in Subsection (4)(a).~~

~~—— (5) "Participating employer" means an employer that meets the participation requirements of Section 49-15-201.~~

~~—— (6) (a) "Public safety service" means employment [normally requiring an average of 2,080 hours of regularly scheduled employment per year] meeting the requirements described in Subsection (6)(c) rendered by a member who is:~~

~~—— (i) a law enforcement officer in accordance with Section 53-13-103;~~

~~—— (ii) a correctional officer in accordance with Section 53-13-104;~~

~~—— (iii) a special function officer approved in accordance with Sections 49-15-201 and 53-13-105;~~

~~—— (iv) a dispatcher who is certified in accordance with Section 53-6-303;~~

~~—— (v) a full-time member of the Board of Pardons and Parole created under Section 77-27-2;~~

~~—— (vi) the commissioner of the Department of Public Safety; or~~

~~—— (vii) the executive director of the Department of Corrections.~~

~~—— (b) Except for a position described in Subsection (6)(a)(iv), (v), (vi), or (vii), "public safety service" also requires that, in the course of employment, the employee's life or personal safety is at risk.~~

~~—— (c) "Public safety service" requires actual work in the public safety position:~~

~~—— (i) during each pay period that is equal to or greater than the hours that the participating employer has certified to the office as the regular work period necessary to accomplish the normal duties and responsibilities of the position; and~~

~~—— (ii) that is at least 2,080 hours per year.~~

~~—— (7) "Public safety service employee" means an employee of a participating employer who performs public safety service under this chapter.~~

~~—— (8) (a) "Strenuous activity" means engagement involving a difficult, stressful, or vigorous fire suppression, rescue, hazardous material response, emergency medical service;~~

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~~physical law enforcement, prison security, disaster relief, or other emergency response activity.~~

~~—— (b) "Strenuous activity" includes participating in a participating employer sanctioned and funded training exercise that involves difficult, stressful, or vigorous physical activity.~~

~~—— (9) "System" means the Public Safety Noncontributory Retirement System created under this chapter.~~

~~—— (10) "Years of service credit" means the number of periods, each to consist of 12 full months as determined by the board, whether consecutive or not, during which a public safety service employee was employed by a participating employer, including time the public safety service employee was absent in the service of the United States government on military duty.~~

~~—— Section 9. Section **49-16-102 (Superseded 07/01/24)** is amended to read:~~

~~—— **49-16-102 (Superseded 07/01/24). Definitions.**~~

~~—— As used in this chapter:~~

~~—— (1) (a) "Compensation" means the total amount of payments that are includable as gross income received by a firefighter service employee as base income for the regularly scheduled work period. The participating employer shall establish the regularly scheduled work period. Base income shall be determined prior to the deduction of member contributions or any amounts the firefighter service employee authorizes to be deducted for salary deferral or other benefits authorized by federal law.~~

~~—— (b) "Compensation" includes performance-based bonuses and cost-of-living adjustments.~~

~~—— (c) "Compensation" does not include:~~

~~—— (i) overtime;~~

~~—— (ii) sick pay incentives;~~

~~—— (iii) retirement pay incentives;~~

~~—— (iv) remuneration paid in kind such as a residence, use of equipment, uniforms, travel, or similar payments;~~

~~—— (v) a lump-sum payment or special payments covering accumulated leave; and~~

~~—— (vi) all contributions made by a participating employer under this system or under any other employee benefit system or plan maintained by a participating employer for the benefit of a member or participant.~~

~~—— (d) "Compensation" for purposes of this chapter may not exceed the amount allowed~~

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~~under Section 401(a)(17), Internal Revenue Code:~~

~~—— (2) (a) "Disability" means the complete inability, due to objective medical impairment, whether physical or mental, to perform firefighter service.~~

~~—— (b) "Disability" does not include the inability to meet an employer's required standards or tests relating to fitness, physical ability, or agility that is not a result of a disability as defined under Subsection (2)(a).~~

~~—— (3) "Emergency medical service personnel" means an individual who:~~

~~—— (a) is:~~

~~—— (i) a paramedic;~~

~~—— (ii) an advanced emergency medical services technician; or~~

~~—— (iii) an emergency medical services technician;~~

~~—— (b) is required to be licensed or certified under Section 26B-4-116; and~~

~~—— (c) has a primary job duty to provide emergency medical services as a first responder.~~

~~—— (4) (a) "Final average salary" means the amount calculated by averaging the highest three years of annual compensation preceding retirement subject to Subsections (4)(b), (c), and (d):~~

~~—— (b) Except as provided in Subsection (4)(c), the percentage increase in annual compensation in any one of the years used may not exceed the previous year's compensation by more than 10% plus a cost-of-living adjustment equal to the decrease in the purchasing power of the dollar during the previous year, as measured by a United States Bureau of Labor Statistics Consumer Price Index average as determined by the board:~~

~~—— (c) In cases where the participating employer provides acceptable documentation to the office the limitation in Subsection (4)(b) may be exceeded if:~~

~~—— (i) the member has transferred from another agency; or~~

~~—— (ii) the member has been promoted to a new position.~~

~~—— (d) The annual compensation used to calculate final average salary shall be based on a period, as determined by the board, consistent with the period used to determine years of service credit in accordance with Subsection (14):~~

~~—— (5) (a) "Firefighter service" means employment [normally requiring an average of 2,080 hours of regularly scheduled employment per year] meeting the requirements described in Subsection (5)(c) rendered by a member who is:~~

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- ~~—— (i) a firefighter service employee trained in firefighter techniques and assigned to a position of hazardous duty with a regularly constituted fire department;~~
- ~~—— (ii) the state fire marshal appointed under Section 53-7-103 or a deputy state fire marshal; or~~
- ~~—— (iii) an emergency medical service personnel.~~
- ~~—— (b) "Firefighter service" does not include secretarial staff or other similar employees.~~
- ~~—— (c) "Firefighter service" requires actual work in the firefighter position:~~
  - ~~—— (i) during each pay period that is equal to or greater than the hours that the participating employer has certified to the office as the regular work period necessary to accomplish the normal duties and responsibilities of the position; and~~
  - ~~—— (ii) that is at least 2,080 hours per year.~~
- ~~—— (6) (a) "Firefighter service employee" means an employee of a participating employer who provides firefighter service under this chapter.~~
- ~~—— (b) "Firefighter service employee" does not include an employee of a regularly constituted fire department who does not perform firefighter service.~~
- ~~—— (7) (a) "Line-of-duty death or disability" means a death or disability resulting from:~~
  - ~~—— (i) external force, violence, or disease directly resulting from firefighter service; or~~
  - ~~—— (ii) strenuous activity, including a heart attack or stroke, that occurs during strenuous training or another strenuous activity required as an act of duty as a firefighter service employee.~~
  - ~~—— (b) "Line-of-duty death or disability" does not include a death or disability that:~~
    - ~~—— (i) occurs during an activity that is required as an act of duty as a firefighter service employee if the activity is not a strenuous activity, including an activity that is clerical, administrative, or of a nonmanual nature;~~
    - ~~—— (ii) occurs during the commission of a crime committed by the employee;~~
    - ~~—— (iii) occurs when the employee's intoxication or use of alcohol or drugs, whether prescribed or nonprescribed, contributes to the employee's death or disability; or~~
    - ~~—— (iv) occurs in a manner other than as described in Subsection (7)(a).~~
  - ~~—— (c) "Line-of-duty death or disability" includes the death or disability of a paid firefighter resulting from heart disease, lung disease, or a respiratory tract condition if the paid firefighter has five years of firefighter service credit.~~

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~~—— (8) "Objective medical impairment" means an impairment resulting from an injury or illness that is diagnosed by a physician or physician assistant and that is based on accepted objective medical tests or findings rather than subjective complaints.~~

~~—— (9) "Participating employer" means an employer that meets the participation requirements of Section 49-16-201.~~

~~—— (10) "Regularly constituted fire department" means a fire department that employs a fire chief who performs firefighter service for at least 2,080 hours of regularly scheduled paid employment per year.~~

~~—— (11) (a) "Strenuous activity" means engagement involving a difficult, stressful, or vigorous fire suppression, rescue, hazardous material response, emergency medical service, physical law enforcement, prison security, disaster relief, or other emergency response activity.~~

~~—— (b) "Strenuous activity" includes participating in a participating employer sanctioned and funded training exercise that involves difficult, stressful, or vigorous physical activity.~~

~~—— (12) "System" means the Firefighters' Retirement System created under this chapter.~~

~~—— (13) (a) "Volunteer firefighter" means any individual who is not regularly employed as a firefighter service employee, but who:~~

~~—— (i) has been trained in firefighter techniques and skills;~~

~~—— (ii) continues to receive regular firefighter training; and~~

~~—— (iii) is on the rolls of a legally organized volunteer fire department that provides ongoing training and serves a political subdivision of the state.~~

~~—— (b) "Volunteer firefighter" does not include an individual who volunteers assistance but does not meet the requirements of Subsection (13)(a).~~

~~—— (14) "Years of service credit" means the number of periods, each to consist of 12 full months as determined by the board, whether consecutive or not, during which a firefighter service employee was employed by a participating employer or received full-time pay while on sick leave, including any time the firefighter service employee was absent in the service of the United States on military duty.~~

~~—— Section 10. Section 49-16-102 (Effective 07/01/24) is amended to read:~~

~~—— 49-16-102 (Effective 07/01/24). Definitions:~~

~~—— As used in this chapter:~~

~~—— (1) (a) "Compensation" means the total amount of payments that are includable as~~

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~~gross income received by a firefighter service employee as base income for the regularly scheduled work period. The participating employer shall establish the regularly scheduled work period. Base income shall be determined prior to the deduction of member contributions or any amounts the firefighter service employee authorizes to be deducted for salary deferral or other benefits authorized by federal law.~~

~~—— (b) "Compensation" includes performance-based bonuses and cost-of-living adjustments.~~

~~—— (c) "Compensation" does not include:~~

~~—— (i) overtime;~~

~~—— (ii) sick pay incentives;~~

~~—— (iii) retirement pay incentives;~~

~~—— (iv) remuneration paid in kind such as a residence, use of equipment, uniforms, travel, or similar payments;~~

~~—— (v) a lump-sum payment or special payments covering accumulated leave; and~~

~~—— (vi) all contributions made by a participating employer under this system or under any other employee benefit system or plan maintained by a participating employer for the benefit of a member or participant.~~

~~—— (d) "Compensation" for purposes of this chapter may not exceed the amount allowed under Section 401(a)(17), Internal Revenue Code.~~

~~—— (2) (a) "Disability" means the complete inability, due to objective medical impairment, whether physical or mental, to perform firefighter service.~~

~~—— (b) "Disability" does not include the inability to meet an employer's required standards or tests relating to fitness, physical ability, or agility that is not a result of a disability as defined under Subsection (2)(a).~~

~~—— (3) "Emergency medical service personnel" means an individual who:~~

~~—— (a) is:~~

~~—— (i) a paramedic;~~

~~—— (ii) an advanced emergency medical services technician; or~~

~~—— (iii) an emergency medical services technician;~~

~~—— (b) is required to be licensed or certified under Section 53-2d-402; and~~

~~—— (c) has a primary job duty to provide emergency medical services as a first responder.~~

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~~—— (4) (a) "Final average salary" means the amount calculated by averaging the highest three years of annual compensation preceding retirement subject to Subsections (4)(b), (c), and (d):~~

~~—— (b) Except as provided in Subsection (4)(c), the percentage increase in annual compensation in any one of the years used may not exceed the previous year's compensation by more than 10% plus a cost-of-living adjustment equal to the decrease in the purchasing power of the dollar during the previous year, as measured by a United States Bureau of Labor Statistics Consumer Price Index average as determined by the board:~~

~~—— (c) In cases where the participating employer provides acceptable documentation to the office the limitation in Subsection (4)(b) may be exceeded if:~~

~~—— (i) the member has transferred from another agency; or~~

~~—— (ii) the member has been promoted to a new position:~~

~~—— (d) The annual compensation used to calculate final average salary shall be based on a period, as determined by the board, consistent with the period used to determine years of service credit in accordance with Subsection (14):~~

~~—— (5) (a) "Firefighter service" means employment [normally requiring an average of 2,080 hours of regularly scheduled employment per year] meeting the requirements described in Subsection (5)(c) rendered by a member who is:~~

~~—— (i) a firefighter service employee trained in firefighter techniques and assigned to a position of hazardous duty with a regularly constituted fire department;~~

~~—— (ii) the state fire marshal appointed under Section 53-7-103 or a deputy state fire marshal; or~~

~~—— (iii) an emergency medical service personnel:~~

~~—— (b) "Firefighter service" does not include secretarial staff or other similar employees:~~

~~—— (c) "Firefighter service" requires actual work in the firefighter position:~~

~~—— (i) during each pay period that is equal to or greater than the hours that the participating employer has certified to the office as the regular work period necessary to accomplish the normal duties and responsibilities of the position; and~~

~~—— (ii) that is at least 2,080 hours per year.~~

~~—— (6) (a) "Firefighter service employee" means an employee of a participating employer who provides firefighter service under this chapter:~~

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~~—— (b) "Firefighter service employee" does not include an employee of a regularly constituted fire department who does not perform firefighter service.~~

~~—— (7) (a) "Line-of-duty death or disability" means a death or disability resulting from:~~

~~—— (i) external force, violence, or disease directly resulting from firefighter service; or~~

~~—— (ii) strenuous activity, including a heart attack or stroke, that occurs during strenuous training or another strenuous activity required as an act of duty as a firefighter service employee.~~

~~—— (b) "Line-of-duty death or disability" does not include a death or disability that:~~

~~—— (i) occurs during an activity that is required as an act of duty as a firefighter service employee if the activity is not a strenuous activity, including an activity that is clerical, administrative, or of a nonmanual nature;~~

~~—— (ii) occurs during the commission of a crime committed by the employee;~~

~~—— (iii) occurs when the employee's intoxication or use of alcohol or drugs, whether prescribed or nonprescribed, contributes to the employee's death or disability; or~~

~~—— (iv) occurs in a manner other than as described in Subsection (7)(a).~~

~~—— (c) "Line-of-duty death or disability" includes the death or disability of a paid firefighter resulting from heart disease, lung disease, or a respiratory tract condition if the paid firefighter has five years of firefighter service credit.~~

~~—— (8) "Objective medical impairment" means an impairment resulting from an injury or illness that is diagnosed by a physician or physician assistant and that is based on accepted objective medical tests or findings rather than subjective complaints.~~

~~—— (9) "Participating employer" means an employer that meets the participation requirements of Section 49-16-201.~~

~~—— (10) "Regularly constituted fire department" means a fire department that employs a fire chief who performs firefighter service for at least 2,080 hours of regularly scheduled paid employment per year.~~

~~—— (11) (a) "Strenuous activity" means engagement involving a difficult, stressful, or vigorous fire suppression, rescue, hazardous material response, emergency medical service, physical law enforcement, prison security, disaster relief, or other emergency response activity.~~

~~—— (b) "Strenuous activity" includes participating in a participating employer sanctioned and funded training exercise that involves difficult, stressful, or vigorous physical activity.~~

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~~———— (12) "System" means the Firefighters' Retirement System created under this chapter.~~

~~———— (13) (a) "Volunteer firefighter" means any individual who is not regularly employed as a firefighter service employee, but who:~~

~~———— (i) has been trained in firefighter techniques and skills;~~

~~———— (ii) continues to receive regular firefighter training; and~~

~~———— (iii) is on the rolls of a legally organized volunteer fire department that provides ongoing training and serves a political subdivision of the state.~~

~~———— (b) "Volunteer firefighter" does not include an individual who volunteers assistance but does not meet the requirements of Subsection (13)(a):~~

~~———— (14) "Years of service credit" means the number of periods, each to consist of 12 full months as determined by the board, whether consecutive or not, during which a firefighter service employee was employed by a participating employer or received full-time pay while on sick leave, including any time the firefighter service employee was absent in the service of the United States on military duty.~~

~~———— Section 11. Section 49-22-502 is amended to read:~~

‡ **49-22-502. Death of married members -- Service retirement benefits to surviving spouse.**

(1) As used in this section, "member's full allowance" means an Option Three allowance calculated under Section 49-22-305 without an actuarial reduction.

(2) Upon the request of a deceased member's surviving spouse, the deceased member is considered to have retired under Option Three on the first day of the month following the month in which the member died if the following requirements are met:

(a) the member has:

(i) 15 or more years of service credit;

(ii) attained age 62 with 10 or more years of service credit; or

(iii) attained age 65 with four or more years of service credit; and

(b) the member dies leaving a surviving spouse.

(3) The surviving spouse who requests a benefit under this section shall apply in writing to the office. The allowance shall begin on the first day of the month:

(a) following the month in which the member died, if the application is received by the office within 90 days of the member's death; or

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(b) following the month in which the application is received by the office, if the application is received by the office more than 90 days after the member's death.

(4) The allowance payable to a surviving spouse under Subsection (2) is as follows:

(a) if the member has 25 or more years of service credit at the time of death, the surviving spouse shall receive the member's full allowance;

(b) if the member has between 20-24 years of service credit and is not age 60 or older at the time of death, the surviving spouse shall receive 2/3 of the member's full allowance;

(c) if the member has between 15-19 years of service credit and is not age 62 or older at the time of death, the surviving spouse shall receive 1/3 of the member's full allowance; or

(d) if the member is age 60 or older with 20 or more years of service credit, age 62 or older with 10 or more years of service credit, or age 65 or older with four or more years of service credit at the time of death, the surviving spouse shall receive an Option Three benefit with actuarial reductions.

(5) The benefit calculation for a surviving spouse with a valid domestic relations order benefits on file with the office before the member's death date in accordance with Section 49-11-612 is calculated according to the manner in which the court order specified benefits to be partitioned, whether as a fixed amount or as a percentage of the benefit.

(6) (a) Except for a return of member contributions, benefits payable under this section are retirement benefits and shall be paid in addition to any other payments made under Section 49-22-501 [~~and shall constitute a full and final settlement of the claim of the surviving spouse or any other beneficiary filing a claim for benefits under Section 49-22-501~~].

(b) Payments made under this section and Section 49-22-501 shall constitute a full and final settlement of the claim of the surviving spouse or any other beneficiary.

(7) If the death benefits under this section are partitioned among more than one surviving spouse due to domestic relations order benefits on file with the office before the member's death date in accordance with Section 49-11-612, the total amount received by the surviving spouses may not exceed the death benefits normally provided to one surviving spouse under this section.

~~Section 12. Section 49-23-102 (Superseded 07/01/24) is amended to read:~~

~~49-23-102 (Superseded 07/01/24). Definitions.~~

~~As used in this chapter:~~

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~~———— (1) (a) "Compensation" means the total amount of payments that are includable in gross income received by a public safety service employee or a firefighter service employee as base income for the regularly scheduled work period. The participating employer shall establish the regularly scheduled work period. Base income shall be determined prior to the deduction of any amounts the public safety service employee or firefighter service employee authorizes to be deducted for salary deferral or other benefits authorized by federal law.~~

~~———— (b) "Compensation" includes performance-based bonuses and cost-of-living adjustments.~~

~~———— (c) "Compensation" does not include:~~

~~———— (i) overtime;~~

~~———— (ii) sick pay incentives;~~

~~———— (iii) retirement pay incentives;~~

~~———— (iv) the monetary value of remuneration paid in kind, as in a residence, use of equipment or uniform, travel, or similar payments;~~

~~———— (v) a lump-sum payment or special payment covering accumulated leave; and~~

~~———— (vi) all contributions made by a participating employer under this system or under any other employee benefit system or plan maintained by a participating employer for the benefit of a member or participant.~~

~~———— (d) "Compensation" for purposes of this chapter may not exceed the amount allowed under Section 401(a)(17), Internal Revenue Code.~~

~~———— (2) "Corresponding Tier I system" means the system or plan that would have covered the member if the member had initially entered employment before July 1, 2011.~~

~~———— (3) "Dispatcher" means the same as that term is defined in Section 53-6-102.~~

~~———— (4) "Emergency medical service personnel" means an individual who:~~

~~———— (a) is:~~

~~———— (i) a paramedic;~~

~~———— (ii) an advanced emergency medical services technician; or~~

~~———— (iii) an emergency medical services technician;~~

~~———— (b) is required to be licensed or certified under Section 26B-4-116; and~~

~~———— (c) has a primary job duty to provide emergency medical services as a first responder.~~

~~———— (5) (a) "Final average salary" means the amount calculated by averaging the highest~~

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~~five years of annual compensation preceding retirement subject to Subsections (5)(b), (c), (d), (e), and (f):~~

~~—— (b) Except as provided in Subsection (5)(c), the percentage increase in annual compensation in any one of the years used may not exceed the previous year's compensation by more than 10% plus a cost-of-living adjustment equal to the decrease in the purchasing power of the dollar during the previous year, as measured by a United States Bureau of Labor Statistics Consumer Price Index average as determined by the board.~~

~~—— (c) In cases where the participating employer provides acceptable documentation to the office, the limitation in Subsection (5)(b) may be exceeded if:~~

~~—— (i) the member has transferred from another agency; or~~

~~—— (ii) the member has been promoted to a new position.~~

~~—— (d) If the member retires more than six months from the date of termination of employment, the member is considered to have been in service at the member's last rate of pay from the date of the termination of employment to the effective date of retirement for purposes of computing the member's final average salary only.~~

~~—— (e) If the member has less than five years of service credit in this system, final average salary means the average annual compensation paid to the member during the full period of service credit.~~

~~—— (f) The annual compensation used to calculate final average salary shall be based on a period, as determined by the board, consistent with the period used to determine years of service credit in accordance with Subsection (15):~~

~~—— (6) (a) "Firefighter service" means employment [normally requiring an average of 2,080 hours of regularly scheduled employment per year] meeting the requirements of Subsection (6)(c) rendered by a member who is:~~

~~—— (i) a firefighter service employee trained in firefighter techniques and assigned to a position of hazardous duty with a regularly constituted fire department;~~

~~—— (ii) the state fire marshal appointed under Section 53-7-103 or a deputy state fire marshal;~~

~~—— (iii) a firefighter service employee who is:~~

~~—— (A) hired on or after July 1, 2021;~~

~~—— (B) trained in firefighter techniques;~~

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- ~~—— (C) assigned to a position of hazardous duty; and~~
- ~~—— (D) employed by the state as a participating employer; or~~
- ~~—— (iv) an emergency medical service personnel.~~
- ~~—— (b) "Firefighter service" does not include secretarial staff or other similar employees.~~
- ~~—— (c) "Firefighter service" requires actual work in the firefighter position:~~
  - ~~—— (i) during each pay period that is equal to or greater than the hours that the participating employer has certified to the office as the regular work period necessary to accomplish the normal duties and responsibilities of the position; and~~
  - ~~—— (ii) that is at least 2,080 hours per year.~~
- ~~—— (7) (a) "Firefighter service employee" means an employee of a participating employer who provides firefighter service under this chapter.~~
- ~~—— (b) "Firefighter service employee" does not include an employee of a regularly constituted fire department who does not perform firefighter service.~~
- ~~—— (8) (a) "Line-of-duty death" means a death resulting from:~~
  - ~~—— (i) external force, violence, or disease occasioned by an act of duty as a public safety service or firefighter service employee; or~~
  - ~~—— (ii) strenuous activity, including a heart attack or stroke, that occurs during strenuous training or another strenuous activity required as an act of duty as a public safety service or firefighter service employee.~~
- ~~—— (b) "Line-of-duty death" does not include a death that:~~
  - ~~—— (i) occurs during an activity that is required as an act of duty as a public safety service or firefighter service employee if the activity is not a strenuous activity, including an activity that is clerical, administrative, or of a nonmanual nature;~~
  - ~~—— (ii) occurs during the commission of a crime committed by the employee;~~
  - ~~—— (iii) the employee's intoxication or use of alcohol or drugs, whether prescribed or nonprescribed, contributes to the employee's death; or~~
  - ~~—— (iv) occurs in a manner other than as described in Subsection (8)(a).~~
- ~~—— (9) "Participating employer" means an employer that meets the participation requirements of:~~
  - ~~—— (a) Sections 49-14-201 and 49-14-202;~~
  - ~~—— (b) Sections 49-15-201 and 49-15-202;~~

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- ~~—— (c) Sections 49-16-201 and 49-16-202; or~~
- ~~—— (d) Sections 49-23-201 and 49-23-202.~~
- ~~—— (10) (a) "Public safety service" means employment [normally requiring an average of 2,080 hours of regularly scheduled employment per year] meeting the requirements of Subsection (10)(c) rendered by a member who is:~~
  - ~~—— (i) a law enforcement officer in accordance with Section 53-13-103;~~
  - ~~—— (ii) a correctional officer in accordance with Section 53-13-104;~~
  - ~~—— (iii) a special function officer approved in accordance with Sections 49-15-201 and 53-13-105;~~
  - ~~—— (iv) a dispatcher who is certified in accordance with Section 53-6-303;~~
  - ~~—— (v) a full-time member of the Board of Pardons and Parole created under Section 77-27-2;~~
  - ~~—— (vi) the commissioner of the Department of Public Safety; or~~
  - ~~—— (vii) the executive director of the Department of Corrections.~~
- ~~—— (b) Except for a position described in Subsection (10)(a)(iv), (v), (vi), or (vii), "public safety service" also requires that, in the course of employment, the employee's life or personal safety is at risk.~~
- ~~—— (c) "Public safety service" requires actual work in the public safety position:~~
  - ~~—— (i) during each pay period that is equal to or greater than the hours that the participating employer has certified to the office as the regular work period necessary to accomplish the normal duties and responsibilities of the position; and~~
  - ~~—— (ii) that is at least 2,080 hours per year.~~
- ~~—— (11) "Public safety service employee" means an employee of a participating employer who performs public safety service under this chapter.~~
- ~~—— (12) (a) "Strenuous activity" means engagement involving a difficult, stressful, or vigorous fire suppression, rescue, hazardous material response, emergency medical service, physical law enforcement, prison security, disaster relief, or other emergency response activity.~~
  - ~~—— (b) "Strenuous activity" includes participating in a participating employer sanctioned and funded training exercise that involves difficult, stressful, or vigorous physical activity.~~
- ~~—— (13) "System" means the New Public Safety and Firefighter Tier II Contributory Retirement System created under this chapter.~~

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~~———— (14) (a) "Volunteer firefighter" means any individual who is not regularly employed as a firefighter service employee, but who:~~

~~———— (i) has been trained in firefighter techniques and skills;~~

~~———— (ii) continues to receive regular firefighter training; and~~

~~———— (iii) is on the rolls of a legally organized volunteer fire department that provides ongoing training and serves a political subdivision of the state.~~

~~———— (b) An individual that volunteers assistance but does not meet the requirements of Subsection (14)(a) is not a volunteer firefighter for purposes of this chapter.~~

~~———— (15) "Years of service credit" means:~~

~~———— (a) a period, consisting of 12 full months as determined by the board; or~~

~~———— (b) a period determined by the board, whether consecutive or not, during which a regular full-time employee performed services for a participating employer, including any time the regular full-time employee was absent on a paid leave of absence granted by a participating employer or was absent in the service of the United States government on military duty as provided by this chapter.~~

~~———— Section 13. Section ~~49-23-102~~ (Effective 07/01/24) is amended to read:~~

~~———— **49-23-102 (Effective 07/01/24). Definitions:**~~

~~———— As used in this chapter:~~

~~———— (1) (a) "Compensation" means the total amount of payments that are includable in gross income received by a public safety service employee or a firefighter service employee as base income for the regularly scheduled work period. The participating employer shall establish the regularly scheduled work period. Base income shall be determined prior to the deduction of any amounts the public safety service employee or firefighter service employee authorizes to be deducted for salary deferral or other benefits authorized by federal law.~~

~~———— (b) "Compensation" includes performance-based bonuses and cost-of-living adjustments.~~

~~———— (c) "Compensation" does not include:~~

~~———— (i) overtime;~~

~~———— (ii) sick pay incentives;~~

~~———— (iii) retirement pay incentives;~~

~~———— (iv) the monetary value of remuneration paid in kind, as in a residence, use of~~

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~~equipment or uniform, travel, or similar payments;~~

~~—— (v) a lump-sum payment or special payment covering accumulated leave; and~~

~~—— (vi) all contributions made by a participating employer under this system or under any other employee benefit system or plan maintained by a participating employer for the benefit of a member or participant.~~

~~—— (d) "Compensation" for purposes of this chapter may not exceed the amount allowed under Section 401(a)(17), Internal Revenue Code.~~

~~—— (2) "Corresponding Tier I system" means the system or plan that would have covered the member if the member had initially entered employment before July 1, 2011.~~

~~—— (3) "Dispatcher" means the same as that term is defined in Section 53-6-102.~~

~~—— (4) "Emergency medical service personnel" means an individual who:~~

~~—— (a) is:~~

~~—— (i) a paramedic;~~

~~—— (ii) an advanced emergency medical services technician; or~~

~~—— (iii) an emergency medical services technician;~~

~~—— (b) is required to be licensed or certified under Section 53-2d-402; and~~

~~—— (c) has a primary job duty to provide emergency medical services as a first responder.~~

~~—— (5) (a) "Final average salary" means the amount calculated by averaging the highest five years of annual compensation preceding retirement subject to Subsections (5)(b), (c), (d), (e), and (f):~~

~~—— (b) Except as provided in Subsection (5)(c), the percentage increase in annual compensation in any one of the years used may not exceed the previous year's compensation by more than 10% plus a cost-of-living adjustment equal to the decrease in the purchasing power of the dollar during the previous year, as measured by a United States Bureau of Labor Statistics Consumer Price Index average as determined by the board.~~

~~—— (c) In cases where the participating employer provides acceptable documentation to the office, the limitation in Subsection (5)(b) may be exceeded if:~~

~~—— (i) the member has transferred from another agency; or~~

~~—— (ii) the member has been promoted to a new position.~~

~~—— (d) If the member retires more than six months from the date of termination of employment, the member is considered to have been in service at the member's last rate of pay~~

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~~from the date of the termination of employment to the effective date of retirement for purposes of computing the member's final average salary only:~~

~~—— (c) If the member has less than five years of service credit in this system, final average salary means the average annual compensation paid to the member during the full period of service credit.~~

~~—— (f) The annual compensation used to calculate final average salary shall be based on a period, as determined by the board, consistent with the period used to determine years of service credit in accordance with Subsection (15):~~

~~—— (6) (a) "Firefighter service" means employment [normally requiring an average of 2,080 hours of regularly scheduled employment per year] meeting the requirements of Subsection (6)(c) rendered by a member who is:~~

~~—— (i) a firefighter service employee trained in firefighter techniques and assigned to a position of hazardous duty with a regularly constituted fire department;~~

~~—— (ii) the state fire marshal appointed under Section 53-7-103 or a deputy state fire marshal;~~

~~—— (iii) a firefighter service employee who is:~~

~~—— (A) hired on or after July 1, 2021;~~

~~—— (B) trained in firefighter techniques;~~

~~—— (C) assigned to a position of hazardous duty; and~~

~~—— (D) employed by the state as a participating employer; or~~

~~—— (iv) an emergency medical service personnel.~~

~~—— (b) "Firefighter service" does not include secretarial staff or other similar employees.~~

~~—— (c) "Firefighter service" requires actual work in the firefighter position:~~

~~—— (i) during each pay period that is equal to or greater than the hours that the participating employer has certified to the office as the regular work period necessary to accomplish the normal duties and responsibilities of the position; and~~

~~—— (ii) that is at least 2,080 hours per year.~~

~~—— (7) (a) "Firefighter service employee" means an employee of a participating employer who provides firefighter service under this chapter.~~

~~—— (b) "Firefighter service employee" does not include an employee of a regularly constituted fire department who does not perform firefighter service.~~

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~~—— (8) (a) "Line-of-duty death" means a death resulting from:~~

~~—— (i) external force, violence, or disease occasioned by an act of duty as a public safety service or firefighter service employee; or~~

~~—— (ii) strenuous activity, including a heart attack or stroke, that occurs during strenuous training or another strenuous activity required as an act of duty as a public safety service or firefighter service employee.~~

~~—— (b) "Line-of-duty death" does not include a death that:~~

~~—— (i) occurs during an activity that is required as an act of duty as a public safety service or firefighter service employee if the activity is not a strenuous activity, including an activity that is clerical, administrative, or of a nonmanual nature;~~

~~—— (ii) occurs during the commission of a crime committed by the employee;~~

~~—— (iii) the employee's intoxication or use of alcohol or drugs, whether prescribed or nonprescribed, contributes to the employee's death; or~~

~~—— (iv) occurs in a manner other than as described in Subsection (8)(a).~~

~~—— (9) "Participating employer" means an employer that meets the participation requirements of:~~

~~—— (a) Sections 49-14-201 and 49-14-202;~~

~~—— (b) Sections 49-15-201 and 49-15-202;~~

~~—— (c) Sections 49-16-201 and 49-16-202; or~~

~~—— (d) Sections 49-23-201 and 49-23-202.~~

~~—— (10) (a) "Public safety service" means employment [normally requiring an average of 2,080 hours of regularly scheduled employment per year] meeting the requirements of Subsection (10)(c) rendered by a member who is:~~

~~—— (i) a law enforcement officer in accordance with Section 53-13-103;~~

~~—— (ii) a correctional officer in accordance with Section 53-13-104;~~

~~—— (iii) a special function officer approved in accordance with Sections 49-15-201 and 53-13-105;~~

~~—— (iv) a dispatcher who is certified in accordance with Section 53-6-303;~~

~~—— (v) a full-time member of the Board of Pardons and Parole created under Section 77-27-2;~~

~~—— (vi) the commissioner of the Department of Public Safety; or~~

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- ~~—— (vii) the executive director of the Department of Corrections.~~
- ~~—— (b) Except for a position described in Subsection (10)(a)(iv), (v), (vi), or (vii), "public safety service" also requires that, in the course of employment, the employee's life or personal safety is at risk.~~
- ~~—— (c) "Public safety service" requires actual work in the public safety position:~~
  - ~~—— (i) during each pay period that is equal to or greater than the hours that the participating employer has certified to the office as the regular work period necessary to accomplish the normal duties and responsibilities of the position; and~~
  - ~~—— (ii) that is at least 2,080 hours per year.~~
- ~~—— (11) "Public safety service employee" means an employee of a participating employer who performs public safety service under this chapter.~~
- ~~—— (12) (a) "Strenuous activity" means engagement involving a difficult, stressful, or vigorous fire suppression, rescue, hazardous material response, emergency medical service, physical law enforcement, prison security, disaster relief, or other emergency response activity.~~
  - ~~—— (b) "Strenuous activity" includes participating in a participating employer sanctioned and funded training exercise that involves difficult, stressful, or vigorous physical activity.~~
- ~~—— (13) "System" means the New Public Safety and Firefighter Tier II Contributory Retirement System created under this chapter.~~
- ~~—— (14) (a) "Volunteer firefighter" means any individual who is not regularly employed as a firefighter service employee, but who:~~
  - ~~—— (i) has been trained in firefighter techniques and skills;~~
  - ~~—— (ii) continues to receive regular firefighter training; and~~
  - ~~—— (iii) is on the rolls of a legally organized volunteer fire department that provides ongoing training and serves a political subdivision of the state.~~
- ~~—— (b) An individual that volunteers assistance but does not meet the requirements of Subsection (14)(a) is not a volunteer firefighter for purposes of this chapter.~~
- ~~—— (15) "Years of service credit" means:~~
  - ~~—— (a) a period, consisting of 12 full months as determined by the board; or~~
  - ~~—— (b) a period determined by the board, whether consecutive or not, during which a regular full-time employee performed services for a participating employer, including any time the regular full-time employee was absent on a paid leave of absence granted by a participating~~

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~~employer or was absent in the service of the United States government on military duty as provided by this chapter.~~

~~Section 14}~~8. Section 49-23-502 is amended to read:

**49-23-502. Death of married members -- Service retirement benefits to surviving spouse.**

(1) As used in this section, "member's full allowance" means an Option Three allowance calculated under Section 49-23-304 without an actuarial reduction.

(2) Upon the request of a deceased member's surviving spouse at the time of the member's death, the deceased member is considered to have retired under Option Three on the first day of the month following the month in which the member died if the following requirements are met:

(a) the member has:

(i) 15 or more years of service credit;

(ii) attained age 62 with 10 or more years of service credit; or

(iii) attained age 65 with four or more years of service credit; and

(b) the member dies leaving a surviving spouse.

(3) The surviving spouse who requests a benefit under this section shall apply in writing to the office. The allowance shall begin on the first day of the month:

(a) following the month in which the member died, if the application is received by the office within 90 days of the member's death; or

(b) following the month in which the application is received by the office, if the application is received by the office more than 90 days after the member's death.

(4) The allowance payable to a surviving spouse under Subsection (2) is:

(a) if the member has 25 or more years of service credit at the time of death, the surviving spouse shall receive the member's full allowance;

(b) if the member has between 20-24 years of service credit and is not age 60 or older at the time of death, the surviving spouse shall receive two-thirds of the member's full allowance;

(c) if the member has between 15-19 years of service credit and is not age 62 or older at the time of death, the surviving spouse shall receive one-third of the member's full allowance; or

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(d) if the member is age 60 or older with 20 or more years of service credit, age 62 or older with 10 or more years of service credit, or age 65 or older with four or more years of service credit at the time of death, the surviving spouse shall receive an Option Three benefit with actuarial reductions.

(5) The benefit calculation for a surviving spouse with a valid domestic relations order benefits on file with the office before the member's death date in accordance with Section 49-11-612 is calculated according to the manner in which the court order specified benefits to be partitioned, whether as a fixed amount or as a percentage of the benefit.

(6) (a) Except for a return of member contributions, benefits payable under this section are retirement benefits and shall be paid in addition to any other payments made under Section 49-23-501 [~~and shall constitute a full and final settlement of the claim of the surviving spouse or any other beneficiary filing a claim for benefits under Section 49-23-501~~].

(b) Payments made under this section and Section 49-23-501 shall constitute a full and final settlement of the claim of the surviving spouse or any other beneficiary.

(7) If the death benefits under this section or Section 49-23-503 are partitioned among more than one surviving spouse due to domestic relations order benefits on file with the office before the member's death date in accordance with Section 49-11-612, the total amount received by the surviving spouses may not exceed the death benefits normally provided to one surviving spouse under this section.

Section ~~{15}~~9. **Effective date.**

~~{(1) Except as provided in Subsection (2), this}~~This bill takes effect on May 1, 2024.~~†~~

~~————— (2) The actions affecting Sections 49-16-102 (Effective 07/01/24) and 49-23-102 (Effective 07/01/24) take effect on July 1, 2024.†~~